

**United States District Court**

For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 DANIEL M. MILLER, No. C 10-00264 WHA  
12 Plaintiff,  
13 v.  
14 FACEBOOK, INC. and YAO WEI YEO,  
15 Defendants.**ORDER REGARDING MOTION  
TO DISMISS AND PRO HAC  
VICE APPLICATIONS**

16        This action was transferred from the Northern District of Georgia and assigned to the  
17 undersigned district judge on January 25, 2010 (Dkt. Nos. 18, 22). Defendant Facebook, Inc.  
18 promptly filed a motion to dismiss on February 2, 2010, with a hearing noticed for March 11  
19 (Dkt. No. 25). Under the Civil Local Rules, an opposition to this motion should have been  
20 received by February 18, 2010. No opposition was filed. As such, the hearing on the motion was  
21 vacated and an order to show cause was issued earlier this morning (Dkt. No. 27).

22        This afternoon, counsel for plaintiff informed the Clerk that they had not filed their  
23 opposition to the pending motion because they had yet to file their *pro hac vice* applications to  
24 practice in this district. Apparently, they have been unable to find local counsel for their  
25 applications pursuant to Civil Local Rule 11-3(a)(3). The Northern District of California is a  
26 national court in the sense that *hundreds* of out-of-state attorneys appear every year. In all of the  
27 undersigned's long experience as both a judge and practitioner, he has never encountered a  
28

United States District Court

For the Northern District of California

1 situation where a non-resident attorney was unable to comply with local *pro hac vice* rules.  
2 Counsel are urged to redouble their efforts.

3 Counsel shall have until **NOON ON TUESDAY, MARCH 2, 2010**, to file their *pro hac*  
4 *vice* applications. If these applications properly conform to Civil Local Rule 11-3, they will be  
5 promptly approved. Assuming that these applications are received and properly submitted by this  
6 deadline, counsel shall have until **THURSDAY, MARCH 4, 2010**, to file their opposition to the  
7 pending motion to dismiss. If all these deadlines are met, the undersigned will file an additional  
8 order setting a deadline for defendant's reply brief (likely one week after the opposition is filed)  
9 and a hearing on the motion (likely two weeks after the opposition is filed). If, however, these  
10 deadlines are *not* met, defendant's motion may be granted in full. Counsel are also ordered to  
11 notify their client, Daniel Miller, of this order.

12 Given that the Court is now aware of counsel's "explanation" regarding the missing  
13 opposition brief, the order to show cause filed earlier this morning is **VACATED**.

14  
15 **IT IS SO ORDERED.**

16  
17 Dated: February 23, 2010.

  
18 WILLIAM ALSUP  
19 UNITED STATES DISTRICT JUDGE

20  
21  
22  
23  
24  
25  
26  
27  
28